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United States Department of Agriculture
SERVICE AND REGULATORY ANNOUNCEMENTS NO. 107
(AGRICULTURAL ECONOMICS)

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR THE ENFORCEMENT OF THE PRODUCE AGENCY ACT

(44 Stat. 1355)

By virtue of the authority vested in the Secretary of Agriculture by "An act to prevent the destruction or dumping, without good and sufficient cause therefor, of farm produce received in interstate commerce by commission merchants and others, and to require them truly and correctly to account for all farm produce received by them," approved March 3, 1927 (44 Stat. 1355), I, W. M. Jardine, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following rules and regulations to be in force and effect until amended or superseded by rules and regulations hereafter made by the Secretary of Agriculture under said act.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 17th day of May, 1927.

[SEAL.]

W M Jardine
Secretary of Agriculture.

Regulation 1.—Definitions

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. For the purpose of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Paragraph 1. The produce agency act, or the act.—An act of Congress entitled, "An act to prevent the destruction or dumping, without good and sufficient cause therefor, of farm produce received in interstate commerce by commission merchants and others, and to require them truly and correctly to account for all farm produce received by them," approved March 3, 1927 (44 Stat. 1355).

Paragraph 2. Person.—Individual, firm, association, or corporation.

Paragraph 3. Secretary.—The Secretary of Agriculture of the United States.

Paragraph 4. Chief of bureau.—The chief of the Bureau of Agricultural Economics of the United States Department of Agriculture.

Paragraph 5. Produce.—The term "produce" as used in the act means fruits, vegetables, melons, dairy or poultry products, or any perishable farm products of any kind or character.

Paragraph 6. Good and sufficient cause.—This term with respect to destroyed, abandoned, discarded, or dumped produce, shall be deemed to mean that the produce so dealt with had no commercial value, or that some other legal justification for so dealing with such produce existed, such as an order of condemnation by a health officer or definite authority from the shipper.

Regulation 2.—Administration

SECTION 1. The chief of bureau shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in enforcing the provisions of this act and these rules and regulations.

Regulation 3.—Violations

SECTION 1. Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another who, without good and sufficient cause therefor, shall destroy or abandon, discard as refuse, or dump any produce, directly or indirectly or through collusion with any person, shall be considered to have violated the act.

SEC. 2. Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another shall be considered to have violated the act if knowingly and with intent to defraud he makes any false report or statement to the person from whom such produce was received concerning the handling, condition, quality, quantity, sale, or disposition thereof.

SEC. 3. Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another shall be considered to have violated the act if knowingly and with intent to defraud he fails truly and correctly to account to the person from whom such produce was received for the actual price received for that specific produce, and the actual expenses incurred and charges made incident to the handling and disposition of the same, unless a different basis of settlement is agreed upon between them.

Regulation 4.—Certificates of Inspection

SECTION 1. The following classes of persons are hereby designated to make investigations regarding the quality and condition of produce received in interstate commerce or in the District of Columbia, and to issue certificates as to the quality and condition of such produce which is to be destroyed, abandoned, discarded as refuse, or dumped, upon application of any person shipping, receiving, or financially interested in such produce:

(1) Any authorized inspector of the United States Department of Agriculture under the farm products inspection law.

(2) Any health officer or food inspector of any State, county, parish, city, or municipality.

SEC. 2. Any certificate under the act must identify the particular lot of produce inspected, give the date upon which the inspection was made, the approximate quantity of the produce, the name and address of the agent handling the same, the fee, if any, charged therefor, and shall state the quality and condition of such produce and that it was without commercial value at the time of the inspection.

SEC. 3. Application for an inspection under the act must be made or confirmed in writing to the person requested to make such inspection. The application must show the name and address of the shipper, the name and address of the applicant, the location and description of the produce, with marks, brands, or other specific identification if practicable.

SEC. 4. Any person issuing a certificate under these rules and regulations must mail a copy of the certificate promptly to the chief of bureau. (See regulation 1, sec. 2, par. 4.)

Regulation 5.—Filing of Complaints

SECTION 1. Any person having reason to believe that the act has been violated should submit all available facts with respect thereto to the chief of bureau for investigation and appropriate action.

APPENDIX

THE PRODUCE AGENCY ACT

(Approved March 3, 1927. 44 Stat. 1355)

AN ACT To prevent the destruction or dumping, without good and sufficient cause therefor, of farm produce received in interstate commerce by commission merchants and others and to require them truly and correctly to account for all farm produce received by them

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after June 30, 1927, any person, firm, association, or corporation receiving any fruits, vegetables, melons, dairy, or poultry products or any perishable farm products of any kind or character,

hereinafter referred to as produce, in interstate commerce, or in the District of Columbia, for or on behalf of another, who without good and sufficient cause therefor, shall destroy, or abandon, discard as refuse or dump any produce directly or indirectly, or through collusion with any person, or who shall knowingly and with intent to defraud make any false report or statement to the person, firm, association, or corporation from whom any produce was received, concerning the handling, condition, quality, quantity, sale or disposition thereof, or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 and not more than \$3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court. The Secretary of Agriculture shall by regulation provide for the making of prompt investigations and the issuing of certificates as to the quality and condition of produce received in interstate commerce or in the District of Columbia, upon application of any person, firm, association, or corporation shipping, receiving, or financially interested in, such produce. Such regulations shall designate the classes of persons qualified and authorized to make such investigations and issue such certificates, except that any such investigation shall be made and any such certificate shall be issued by at least two disinterested persons in any case where such investigation is not made by an officer or employee of the Department of Agriculture or of any State or political subdivision thereof or of the District of Columbia. A certificate made in compliance with such regulations shall be prima facie evidence in all Federal courts of the truth of the statements therein contained as to the quality and condition of the produce; but if any such certificate is put in evidence by any party, in any civil or criminal proceeding, the opposite party shall be permitted to cross-examine any person signing such certificate, called as a witness at the instance of either party, as to his qualifications and authority and as to the truth of the statements contained in such certificate.

SEC. 2. The Secretary of Agriculture is hereby authorized and directed to enforce this Act. It is hereby made the duty of all United States attorneys to prosecute cases arising under this Act, subject to the supervision and control of the Department of Justice.

SEC. 3. The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this Act and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this Act; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditures for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this Act in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$25,000 to be available for expenditure during the fiscal year beginning July 1, 1927, and the appropriation of such additional sums as may be necessary thereafter to carry out the purposes of this Act is hereby authorized. This Act shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this Act, but it is intended that all such statutes shall remain in full force and effect, except in so far only as they are inconsistent herewith or repugnant hereto.

SEC. 4. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

Approved, March 3, 1927.

MEMORANDUM TO ACCOMPANY SERVICE AND REGULATORY ANNOUNCEMENTS NO. 107

(AGRICULTURAL ECONOMICS)

A STATEMENT RELATIVE TO THE PRODUCE AGENCY ACT

WASHINGTON, D. C., May 17, 1927.

The produce agency act (44 Stat. L. 1355), the full text of which appears in Service and Regulatory Announcements No. 107, was approved March 3, 1927, effective July 1, 1927. A short title was not included in the text of the act and, therefore, as a means of ready identification and convenience in correspondence, the department will refer to the act as "the produce agency act."

As a piece of marketing legislation, this statute is of interest to everyone concerned with the marketing of perishable farm products. The act and the regulations thereunder should be studied particularly by everyone who ever received such products in interstate commerce or in the District of Columbia to be handled for or on behalf of another.

The act covers three important propositions: It makes it a misdemeanor (1) for anyone receiving perishable farm products in interstate commerce for or on behalf of another to dump, abandon, or destroy the products so received without good and sufficient cause therefor; (2) for anyone receiving such products for or on behalf of another in interstate commerce to fail, knowingly and with intent to defraud, to account truly and correctly therefor; and (3) for anyone receiving such products in interstate commerce, for or on behalf of another, to make any false statement, knowingly and with intent to defraud, concerning the handling, condition, quality, quantity, sale, or disposition thereof.

In considering the act and the regulations thereunder, numerous questions will arise in the minds of the handlers of perishable farm products as to when and under what circumstances the act is applicable. It is not possible for the department to foresee and announce in advance all of the instances in which the act may apply. In its enforcement, the department necessarily must consider each transaction that may come into question strictly upon the facts relating thereto. In general, it may be stated, however, that all persons, firms, associations or corporations receiving produce for or on behalf of another in interstate commerce or in the District of Columbia, whether at point of origin or at destination or elsewhere, are subject to all of the provisions of the act. Obviously the act applies, therefore, not only to commission merchants but also to distributors, brokers, and others whenever they receive produce in interstate commerce or in the District of Columbia to be handled for or on behalf of another.

The act and the regulations thereunder provide that a certificate may be obtained on produce that is without commercial value when such produce is intended to be dumped, abandoned, or destroyed. The purpose of such a certificate is to protect the receiver subject to the act by furnishing him with evidence which he may submit to his principal to show that he had "good and sufficient cause" for dumping, abandoning, or destroying the produce. The act does not under any circumstances require that a certificate be obtained before the produce is dumped, abandoned, or destroyed. If the receiver is satisfied that he has good and sufficient cause for dumping, abandoning, or destroying the produce and does not care for the protection of a certificate in justification of such action on his part, he is not required to have the produce inspected.

If a certificate is obtained it will not meet the requirements of the act unless it is issued by a person in one of the classes designated in the regulations and unless it states that the produce was without commercial value at the time of inspection. If the produce received is without commercial value unless it is reconditioned but could be reconditioned and sold for more than the cost of reconditioning, the receiver would be expected to recondition the produce and dispose of it to the best advantage of his principal.

The pooling of different lots of produce received for sale, or the pooling and averaging of various prices received for different lots of produce, unless the shipper or owner of the produce has agreed thereto, is not authorized by the act. The department also believes that if an agency subject to the act sells part or all of a consignment of produce to itself or to a jobbing department of its business, or to a concern in which it has a financial interest or which is financially interested in the agency, then as a safeguard and in order to obviate possible misunderstandings it should disclose the fact to the shipper in accounting for the produce.

LLOYD S. TENNY,
Chief, Bureau of Agricultural Economics.

(OVER)

Location of Inspectors of the United States Department of Agriculture Designated in the Regulations under the Produce Agency Act

State	City	Address	Service
Alabama	Montgomery	Alabama Department of Agriculture and Industries.	Hay.
California	Los Angeles	206 Wholesale Terminal Building	Fruits and vegetables.
	Sacramento	State Department of Agriculture	Do.
	San Diego	P. O. Box 112	Do.
	San Francisco	Ferry Building, Rooms 1 and 2	Do.
	do.	Ferry Building, Room A	Butter, cheese, and eggs.
	do.	25 California Street, Room 244	Hay.
	Vallejo	Care Monticello Steamship Co.	Fruits and vegetables.
Colorado	Denver	329 Capitol Building	Do.
	do.	806 Cooper Building	Hay.
Connecticut	New Haven	301 Federal Building	Fruits and vegetables.
District of Columbia	Washington	Bureau of Agricultural Economics	Do.
	do.	do.	Butter, cheese, and eggs.
	do.	do.	Hay.
Florida	Jacksonville	204 St. James Building	Fruits and vegetables.
Georgia	Atlanta	1714 Citizens and Southern Bank Building.	Do.
	do.	1715 Citizens and Southern Bank Building.	Hay.
Idaho	Boise	State Department of Agriculture	Fruits and vegetables.
Illinois	Chicago	1425 South Racine Avenue	Do.
	do.	139 North Clark Street, Room 1209	Butter, cheese, and eggs.
	do.	do.	Hay.
Indiana	Indianapolis	637 Meyer-Kiser Bank Building	Fruits and vegetables.
Kansas	Wichita	Care Chamber of Commerce	Do.
Louisiana	Baton Rouge	University Station, Extension Department.	Do.
	New Orleans	216 Post Office Building	Do.
Maryland	Baltimore	339 Custom House	Do.
Massachusetts	Boston	724 Appraiser's Stores Building	Do.
	do.	704 Appraiser's Stores Building	Butter and cheese.
	do.	801 City Hall Annex	Hay.
Michigan	Detroit	159 Twelfth Street, Room 6	Fruits and vegetables.
Minnesota	Duluth	Care Northern Cold Storage Co.	Butter and cheese.
	Minneapolis	Federal Office Building, Room 103	Fruits and vegetables.
	do.	2201 Kennedy Street Northeast	Butter and cheese.
Missouri	Kansas City	212 Railway Exchange Building	Fruits and vegetables.
	do.	1513 Genesee Street	Hay.
	St. Louis	413 Old Custom House	Fruits and vegetables.
Nebraska	Omaha	435 Keeline Building	Do.
New York	Buffalo	230 Federal Building	Do.
	New York	Dodge Building, 53 Park Place	Do.
	do.	do.	Butter, cheese, and eggs.
	do.	601 West Thirty-third Street	Hay.
New Jersey	Trenton	Care State Department of Agriculture	Fruits and vegetables.
North Carolina	Raleigh	do.	Hay.
Ohio	Cincinnati	21-24 Fruit Exchange Building	Fruits and vegetables.
	do.	65 Fosdick Building	Hay.
	Cleveland	423 Erie Building	Fruits and vegetables.
	Columbus	State House Annex	Do.
	Toledo	Post Office Building, Room 2	Do.
Oregon	Portland	112 Citizens Bank Building	Do.
Pennsylvania	Harrisburg	State Capitol, South Office Building	Do.
	Philadelphia	Municipal Pier No. 4, South, Room 238	Do.
	do.	Municipal Pier No. 4, South, Room 240	Butter, cheese, and eggs.
	do.	Bourse Building, Room 587	Hay.
	Pittsburgh	313 Fruit Exchange Building	Fruits and vegetables.
	Wilkes-Barre	226 Miners' Bank Building	Do.
Tennessee	Memphis	754 Randolph Building	Do.
Texas	Fort Worth	1915 Fort Worth National Bank Building	Do.
	do.	510 Neil Place, Anderson Building	Hay.
	Houston	314 First National Bank Building	Fruits and vegetables.
	do.	Houston Merchants' Exchange	Hay.
	San Antonio	Care Chamber of Commerce	Fruits and vegetables.
	do.	1432 South Alamo Street	Hay.
Utah	Salt Lake City	306 Capitol Building	Fruits and vegetables.
	do.	304 Capitol Building	Hay.
Virginia	Norfolk	Royster Building, Room 300	Fruits and vegetables.
	do.	P. O. Box 295	Hay.
	Richmond	Virginia Department of Agriculture, State Office Building.	Do.
Wisconsin	Milwaukee	423 Federal Building	Fruits and vegetables.